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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

13-CR-304 (MGC)

5 AHMED ABASSI,

6 Defendant.

Conference

7 -----x  
8 New York, N.Y.  
9 January 30, 2014  
11:32 a.m.

10 Before:

11 HON. MIRIAM GOLDMAN CEDARBAUM,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: MICHAEL J. FERRARA, ESQ.

BENJAMIN NAFTALIS, ESQ.

18 Assistant United States Attorney

19 FEDERAL DEFENDERS OF NEW YORK INC.

Attorneys for Defendant

20 BY: SABRINA SHROFF, ESQ.

21 ALSO PRESENT: MARWAN ABDEL-RAHMAN, Arabic Language Interpreter

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1 (In chambers)

2 THE COURT: Very well. What is the status of this  
3 case?

4 MR. FERRARA: Good morning, your Honor. Michael  
5 Ferrara and Benjamin Naftalis for the government.

6 At this point, your Honor -- well, I guess over the  
7 last several months the government has been collecting and  
8 producing discovery. I know your Honor's been apprised of two  
9 letters involving discovery that Ms. Shroff sent over to  
10 chambers prior to the conference today.

11 I'll be quite frank with the court. There have been  
12 some complications with the collection and production of the  
13 discovery. The unclassified discovery went out relatively  
14 smoothly. And just to give -- just to sort of remind your  
15 Honor, the allegations in this case arise from in large part  
16 Mr. Abassi's stay in the United States for a few weeks in say  
17 April of last year. He met with an undercover -- unbeknownst  
18 to him, he met with an undercover several days, dozens of days,  
19 over the course of that month, and he was recorded in the  
20 course of doing so. They primarily -- the undercover and  
21 Mr. Abassi primarily spoke to one another in Arabic, and there  
22 are often what we call sort of redundancies in the recordings.  
23 That is to say, there may be multiple recording devices  
24 happening simultaneously in order to ensure that if one  
25 malfunctions, others are capturing the conversation.

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1 THE COURT: The undercover was wearing a wire?

2 MR. FERRARA: The undercover was wearing,  
3 essentially -- essentially wearing a wire at times. At other  
4 times he was speaking into his cellphone, which was recorded at  
5 times. Other times he was in a car or in places where other  
6 recording devices might have been. And so we --

7 THE COURT: Well, how many different recording devices  
8 were used?

9 MR. FERRARA: Well, if your Honor wants a specific  
10 answer, then we would have to go into a classified proceeding.  
11 I can't answer your Honor's question precisely. But suffice it  
12 to say that there were multiple recordings of various  
13 conversations. So we produced -- we had been collecting and  
14 producing the unclassified recordings. And like I said, we  
15 produced -- I don't want to say hundreds of hours, but it may  
16 very well be close to that. It may be a hundred or so hours of  
17 recordings.

18 THE COURT: Now who classified the documents?

19 MR. FERRARA: Well, we produced unclassified  
20 recordings. The classification of some of the other material  
21 arose from the nature of how the material was seized and  
22 applications were made in order to do that.

23 Oh, I'm sorry. To the extent, your Honor -- it was  
24 the FBI that was seeking some of those authorizations, if  
25 that's what your Honor's asking. So when it was created, it

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1 was classified at that time. It wasn't later classified. The  
2 techniques were classified that were being used. And again, if  
3 your Honor wants to sort of at some point have a classified  
4 update, we can do that, but I think the point of all this is to  
5 say that we have produced dozens and dozens of recordings to  
6 the defense. And we produced that both -- and that's audio and  
7 video, and we produced the recordings in an unclassified format  
8 and we also produced them in a classified format.

9 THE COURT: What is the format that makes them  
10 classified?

11 MR. FERRARA: Well, I shouldn't have said -- it's not  
12 the format. I just mean to say there were some recordings that  
13 were unclassified that we produced, and others that were  
14 classified that we produced.

15 Now the primary problem stemmed from -- it took quite  
16 longer than we expected -- because of the just sheer amount of  
17 the recording, it took longer than we had expected to get  
18 authorization to turn some of that material over, so as  
19 Ms. Shroff notes, to the extent your Honor had set a September  
20 date deadline for discovery, we certainly produced quite a bit  
21 of material in advance of that, but I think all of the  
22 classified discovery was produced after that date due to the  
23 difficulties of obtaining that authorization. After  
24 Ms. Shroff --

25 THE COURT: Who gave the authorization?

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1 MR. FERRARA: The FBI. So at that point, after  
2 Ms. Shroff had reviewed -- to her credit, I honestly think  
3 Ms. Shroff and her team have reviewed every single minute of  
4 the discovery because we talked about it at length. Ms. Shroff  
5 sent over a letter requesting additional discovery, much of  
6 which we do not think she is entitled to. However, it prompted  
7 us to look for other things in hopes -- well, it prompted us to  
8 look for things that perhaps we had missed. We wanted to, of  
9 course, be sure we had given everything over, and it turned out  
10 in fact some things had been missed. At that point we asked  
11 Ms. Shroff to -- and I believe she has agreed to a CIPA  
12 protective order, a classified discovery protective order,  
13 which we then forwarded to the court I want to say two days  
14 ago. I've also brought a copy today. Once your Honor enters  
15 this order, which the parties consent to, we will then produce  
16 what we believe is the completion of the classified discovery.  
17 And again, we have that ready to go upon the court's entry of  
18 that order, and of course your Honor doesn't have to sign that  
19 this second, but as soon as the court is able to, we will turn  
20 over that additional material.

21 THE COURT: This is an undisputed matter.

22 MS. SHROFF: Your Honor, we've agreed to it so that --  
23 we've been waiting almost a year for the discovery so --

24 THE COURT: I understand. But whatever your motive --

25 MS. SHROFF: Yes, it's undisputed.

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1 THE COURT: -- there's no question it's undisputed.  
2 Okay.

3 MR. NAFTALIS: So Ms. Shroff has executed that as  
4 well.

5 MS. SHROFF: Yes.

6 MR. FERRARA: So that's the sort of update on the  
7 discovery front, your Honor.

8 And then as to plea negotiations --

9 THE COURT: Originally I thought I had been told that  
10 Mr. Abassi was going to enter a plea.

11 MR. FERRARA: Well, your Honor mentioned that at the  
12 first conference, but that -- I apologize. That should not  
13 have been relayed to the court. I don't know how your Honor  
14 got that message. That was never the case here, that  
15 Mr. Abassi intended to plea. Perhaps -- if that was a  
16 miscommunication from the government, then I apologize, but  
17 that was not the case and your Honor was wrongly informed of  
18 that. But I will say --

19 THE COURT: We're not talking about someone who is  
20 cooperating with the government.

21 MR. FERRARA: No, absolutely not. Correct.

22 Right. Mr. Abassi is not cooperating with the  
23 government. But we are having, your Honor, what I would  
24 call -- and perhaps Ms. Shroff will disagree, but I think we're  
25 having productive discussions towards a resolution of this

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1 case. We had made Ms. Shroff an offer, and I won't, of course,  
2 involve the court in the details of this, but we had made  
3 Ms. Shroff an offer. She -- Mr. Abassi, through Ms. Shroff,  
4 rejected that initial offer and came back with certain other  
5 ideas, which we are now considering, and we hope to have a -- I  
6 guess hers was a counteroffer -- a counter-counter to  
7 Ms. Shroff this week or next. So I think, your Honor, quite  
8 frankly, that the discussions have been very productive, and  
9 I'm relatively -- I'm still hopeful that this case could  
10 result -- could be resolved pretrial in a way that both parties  
11 find fair.

12 So that's where we're at, your Honor. I think the  
13 only thing the government thinks we ought to do -- well, maybe  
14 I'll let Ms. Shroff speak and then we can propose --

15 THE COURT: Very well.

16 MR. FERRARA: I'll wait to hear what Ms. Shroff has to  
17 say and then --

18 THE COURT: Ms. Shroff?

19 MS. SHROFF: Good morning, your Honor.

20 Your Honor, there are a couple of points with which we  
21 disagree, and if I could just tell the court what those are.

22 THE COURT: Yes, please.

23 MS. SHROFF: So the first one is to distinguish  
24 between what is produced to us as discovery and what we believe  
25 Mr. Abassi's entitled to under Rule 16. So if there is a

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1 conversation on a particular day with, let's say, the  
2 government's undercover and it's recorded in three different  
3 methods or three different equipments, we're not unreasonable.  
4 We're not asking for all three equipments.

5 THE COURT: You'd like one of them.

6 MS. SHROFF: We'd like the one and we would like an  
7 affirmation from the government that that one is the most  
8 complete so there are no dropped sentences, there are no  
9 dropped words. So if they used a cellphone, a body wire, and a  
10 home recording device -- and just so the court knows, that  
11 could very well be the case here because Mr. Abassi was made to  
12 live in the co-op in the undercover's home, and we have good  
13 reason to believe that the home was bugged. That would be the  
14 best recording to get. So that's the one issue about  
15 recordings.

16 But then there's also a secondary issue. The  
17 secondary issue is whether or not we have a complete recording  
18 and then a complete translation of the recording, which we do  
19 not have and the government has refused to give us because  
20 their view is, they're not obliged to give it to us and they  
21 are not obliged to bear the cost; they only have to give us  
22 what they are planning to use at trial. So obviously they're  
23 not going to use statements that my client made that would help  
24 him. For example, when they ask him to do something heinous,  
25 my client says, "No, I'm not going to do it." So if my client



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1 has said that once, the government has translated and given it  
2 to me once. But if I'm to represent Mr. Abassi at either plea  
3 negotiations or at a trial, the fact that he repeatedly told  
4 their undercover officer that no, he would not go and blow up a  
5 building and he would not do anything in the present time is  
6 very, very important. It's important because it would  
7 obviously affect plea, it would affect how a trial proceeds,  
8 how a jury's impacted, and god forbid he's convicted, it would  
9 certainly impact the court at sentence. So that -- and I'm  
10 really -- this is not a forum where I'm trying to say the  
11 government's being this or the government's being that.  
12 Assuming all good faith to the government, Mr. Abassi still  
13 doesn't have all of that information, and that's the  
14 nonclassified stuff.

15 And, you know, we've e-mailed the government several  
16 times. We're very cognizant that they have a workload, they  
17 have only so many Arabic interpreters, there are three other  
18 cases before other judges going to trial. Mr. Abassi's sitting  
19 in jail. It's tough on him is an understatement. And if we  
20 could, we would like this over. So we most respectfully ask  
21 that the court set a firm deadline by which the government must  
22 comply regardless of the cost, at least as to giving us all of  
23 the unclassified discovery in a way that the defense can  
24 properly use because, you know, there are two Supreme Court  
25 cases that say now that we have an obligation not just to be

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1 effective at trial but to be effective at plea. To be  
2 effective at plea, I need all the information. That's  
3 information that even the government's conceding I'm entitled  
4 to.

5 Then there is now --

6 THE COURT: Wait just one moment. Do I understand the  
7 government argues that Mr. Abassi is not entitled to a  
8 recording of all of his statements, there are only certain  
9 statements he's entitled to?

10 MR. FERRARA: Absolutely not. That is not our --

11 MS. SHROFF: The transcription, your Honor.

12 MR. FERRARA: Just to be clear, we have given  
13 Ms. Shroff all of the recordings that we have, save this latest  
14 classified discovery that we have to produce upon entry of this  
15 order. We've given her all of the recordings we have. If  
16 there's multiple recordings, we've given her the multiple  
17 recordings of the different ways so she can hear it herself.  
18 We have given -- for each recording, we have given a running  
19 summary that was created by interpreters as they heard it, as  
20 it was actually happening. We've also given summaries of the  
21 calls, of the recordings themselves. Detailed summaries.

22 Now we have, since we first saw the court, been asking  
23 Arabic interpreters to transcribe verbatim certain portions of  
24 those calls. Now I don't speak Arabic. What we've asked, what  
25 we've asked is for the agents to review, using the summaries

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1 and their memories of the events, to review portions of the  
2 calls that would be useful either to the defense or to the  
3 government and we then had those farmed out for verbatim  
4 transcription, which we provided to Ms. Shroff on a rolling  
5 basis, and I think she's gotten about a dozen of those or so.  
6 And they're only portions, that's true, but your Honor, there  
7 are literally just -- Mr. Abassi was in New York City for maybe  
8 a little under a month. He met with the undercover almost  
9 every day. They met for multiple hours in the day. It would  
10 be overwhelming to ask for each of those meetings to be  
11 transcribed in full when much of their discussions are  
12 irrelevant. Sometimes they go out to dinner and they talk  
13 about the food. There's nothing in the law that says that we  
14 have to produce verbatim transcriptions of every recording.  
15 The defense can do that. They can apply for funds to the  
16 court. If she has -- and I've offered Ms. Shroff, I've said to  
17 Ms. Shroff, based on the summaries, or based on conversations  
18 with your client, if you'd like me to have this part or this  
19 part transcribed, I'm happy to farm out some other portion, but  
20 we are not going to ask -- we do not have the resources to have  
21 every second of dozens of hours, hundreds, potentially, of  
22 hours of recordings farmed out when much of the information is  
23 apropos of nothing. But Ms. Shroff has all of it and of course  
24 can have certain things transcribed if she'd like, or if she  
25 wants to target limited things, we would be happy to farm out

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1 those portions for her.

2 MS. SHROFF: The reason my client talked *ad nauseam* to  
3 the undercover is because they had the undercover talking *ad*  
4 *nauseam* to my client. That is how the government chose to set  
5 up this case. If they chose to set it up this way, the least  
6 you can do to a defendant being hauled into a federal court in  
7 the United States of America is give him that discovery. If  
8 you didn't want to set it up that way, you didn't want to  
9 produce it that way, you shouldn't have talked to him about  
10 dinner. But that's the whole crux of the case. Their crux of  
11 the case is that this is a man who came here only for a  
12 specific purpose and we're telling you, no, that's not why he  
13 came here at all, and all of these other conversations that he  
14 has, when he has conversations with the undercover saying,  
15 "Listen, I'd really like to go back to my wife, my wife and I  
16 are wanting to have children, I'd like to get a job, I'd like  
17 to apply for a job, I'd like to go back to Canada, will you  
18 help me get to Canada," all of those things may not certainly  
19 be the crux of their case, but they certainly go to show that  
20 he does not have the mind-set that they want him to have. If  
21 the government's not going to produce it, at the end of the  
22 day, if the court's not going to order that, which ruling we  
23 would obviously respect, our office will have to find a way to  
24 fund that. But the problem so far has been that I do not  
25 believe we still have all of the calls in all of the --

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1 THE COURT: That's the first question.

2 MR. FERRARA: As I mentioned, your Honor, the defense  
3 does not as of now, but once your Honor orders this protective  
4 order, then we will be in a position to say that all the calls  
5 that we know exist, all the recordings that we know exist have  
6 been produced, upon --

7 THE COURT: That you will immediately produce  
8 everything.

9 MR. FERRARA: The rest.

10 MR. NAFTALIS: They're ready. We have it already on  
11 CDs. It's ready to turn over as soon as the order is entered.

12 THE COURT: You agree to this order.

13 MS. SHROFF: I've agreed to the order, your Honor.

14 THE COURT: So you have no objection to that being  
15 done.

16 MS. SHROFF: No. I would like it to be done. In  
17 their response to me, number 28, as Ms. --

18 UNIDENTIFIED SPEAKER: That's our letter. Sorry.

19 MS. SHROFF: According to our review of the discovery,  
20 and we informed the government on December 10<sup>th</sup>, we have 48  
21 phone calls for which we have recordings but no translations or  
22 summaries; nothing at all.

23 THE COURT: And that's what you're interested in.

24 MS. SHROFF: That is the one thing I'm interested in.

25 The other thing I'm interested in is making sure that

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1 the government has given us all of the recordings which -- and  
2 some of them I still think they haven't given to us because  
3 those recordings keep coming up during conversations, and I  
4 think at the end of the day Mr. Ferrara would acknowledge he  
5 hasn't -- the government hasn't yet given those to us. That is  
6 putting aside the whole issue of classified discovery. That is  
7 not classified. This is unclassified stuff.

8 And then there are several other discovery-related  
9 requests that we have made, which may or may not technically  
10 fall within Rule 16, but if the case is this serious, many a  
11 judge has ordered the government to produce it or at least  
12 produce it before it would normally be produced so that the  
13 defendant is properly represented during plea negotiations. So  
14 far we seem to be in agreement on only one issue. The only  
15 thing they have agreed to produce to us so far is the phone  
16 calls which they haven't yet produced to us -- am I wrong or --

17 MR. FERRARA: I'm sorry. I missed the last part.

18 THE COURT: The phone calls which you have not yet  
19 produced.

20 MS. SHROFF: And 48 phone calls for which you've given  
21 us no transcription.

22 MR. FERRARA: Your Honor, again, we are not required  
23 under the law to provide them with transcriptions of the calls.  
24 We have done so for most of the calls because we are attempting  
25 to help however we can, and if Ms. Shroff has portions of the

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1 calls that she would like transcribed, we're happy to do so.  
2 She has all -- she has almost all of the calls, with a very  
3 small exception of a few classified calls that we will produce  
4 promptly upon the entry of that order, and then we would  
5 represent to the court at that point that all of the calls that  
6 we know of have been turned over.

7 And when I say calls, I shouldn't say calls. All the  
8 recordings, because many of the conversations -- most of the  
9 conversations were in person.

10 And your Honor, I worry that the parties are wasting  
11 your Honor's time a little bit here. Ms. Shroff has provided  
12 us a detailed letter. We have responded point by point. We  
13 don't think she's entitled to much of it. If she wants to make  
14 a motion, we're happy to respond to that.

15 THE COURT: But I thought you just told me that if I  
16 sign this order, you will produce all of them.

17 MR. FERRARA: Well, not all of the things in  
18 Ms. Shroff's letter. Ms. Shroff asked for things that in the  
19 government's view are clearly not embraced by Rule 16, *Brady*,  
20 *Giglio*, or any other theory of discovery. She's asking for  
21 things in here that are outside the bounds of discovery that we  
22 do not intend to produce.

23 THE COURT: The defendant is not entitled to all his  
24 prior statements?

25 MR. FERRARA: We have produced all his prior

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1 statements or upon the entry of this, we will have produced.  
2 I'm talking about other things, your Honor, things that are  
3 not --

4 MS. SHROFF: I don't agree. I don't think the  
5 government has produced all of the defendant's postarrest  
6 statements. I think the government has produced the one single  
7 version of all the defendant's postarrest statements, so if the  
8 defendant's postarrest statements, for example, were quoted in  
9 a memo to the head of the FBI, the government has chosen not to  
10 produce that document to us, which we've specifically asked for  
11 but the government has chosen not to give us.

12 THE INTERPRETER: Your Honor, I cannot keep up with  
13 this speed.

14 MS. SHROFF: Sorry. So technically the government has  
15 complied with his postarrest statements, right?

16 THE COURT: You're being asked if you have produced  
17 all of the defendant's statements after his arrest.

18 MR. FERRARA: Yes, your Honor, we have. What  
19 Ms. Shroff is suggesting is that she is somehow entitled to us  
20 quoting from reports when we discuss the case internally. She  
21 is not entitled to that. We have produced to her reports and  
22 notes of that post -- of the postarrest statement. Absolutely,  
23 yes.

24 MS. SHROFF: We don't have reports and notes. We do  
25 not have the handwritten notes of any of Mr. Abassi's



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1 postarrest statements. We've asked for them. We weren't given  
2 them. Those notes are absolutely not produced to us. We  
3 specifically asked for them. We don't have them.

4 The other thing, for example, we've asked for is,  
5 during Mr. Abassi's questioning, the FBI agents allowed  
6 Mr. Abassi to make phone calls to his wife and only allowed him  
7 to talk to his wife for as long as he would then compensate  
8 them by talking to them further. We've asked for those phone  
9 logs. We haven't gotten them. We have asked for those  
10 recordings. We haven't gotten them. This is all discovery.  
11 We're entitled to this discovery. And even if we're not  
12 entitled to it technically under Rule 16, this is a serious  
13 matter and we should be able to have this information to  
14 properly come up with a plea offer.

15 MR. FERRARA: Your Honor, if I'm mistaken -- I've made  
16 a note to myself -- I will of course make sure to produce those  
17 notes. And if I'm in error, we will correct that immediately.

18 THE COURT: All right. They will produce them.

19 MR. FERRARA: And if those calls between Mr. Abassi  
20 and his wife were recorded, we'll produce those as well.

21 MS. SHROFF: We'd like the phone logs, your Honor.

22 MR. FERRARA: I don't know if those were recorded,  
23 your Honor.

24 MS. SHROFF: That may be, but there are phone logs  
25 that show, in the interrogation room where Mr. Abassi was being

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1 held for seven days in a row, he was made to call his wife and  
2 then the FBI would cut off the calls. We would like the phone  
3 log for those calls. We'd like the phone -- the phone -- yeah,  
4 the recording -- the log. Just the plain old log. You know --

5 MR. FERRARA: I'm happy to discuss this.

6 THE COURT: These are matters on which you should be  
7 able to agree.

8 MR. NAFTALIS: Your Honor, some of these are the first  
9 time we're hearing these, and we will look into it. If there  
10 are phone logs, if there are recordings and if they exist,  
11 we'll produce them.

12 THE COURT: Fine. Very well. That's not in dispute.

13 MS. SHROFF: Okay.

14 MR. FERRARA: But again, just --

15 THE COURT: Always quit when you're ahead.

16 (Defendant and his counsel conferring)

17 MS. SHROFF: Your Honor --

18 THE COURT: Mr. Abassi says that he made many more  
19 calls than what was produced.

20 MR. FERRARA: Two responses to that, your Honor.  
21 Some, as -- three responses.

22 First, we either have or will within two days have  
23 produced all of the calls that we have, number one.

24 Number two. I have as a courtesy attempted to produce  
25 all of the unclassified material directly to Mr. Abassi at his

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1 facility. We have sent over hard drives and discs. I hope he  
2 has received all of that and I have -- and I know there has  
3 been some problems, but if he has not received some of that, of  
4 course we will endeavor to get it to him.

5 Number three. There is classified discovery that  
6 Mr. Abassi is not entitled to review at the prison, which is  
7 all I can say about that right now.

8 MS. SHROFF: Okay. So in two days, your Honor, we  
9 should have 200 phone calls, one way or another. By "we," I  
10 mean counsel, cleared counsel. And if not, we'll come back to  
11 the court on that particular issue.

12 THE COURT: Very well. I certainly can't decide what  
13 you have or haven't done. Well, if that's the stumbling block,  
14 you're quite right and we should go forward and see what  
15 happens, what you receive. There's no purpose served in  
16 discussing what may be resolved.

17 MS. SHROFF: That's correct, your Honor.

18 MR. FERRARA: If your Honor wants to set another  
19 conference date for 30 or 45 days just to take this back up, at  
20 that point Ms. Shroff will have had a chance to review what we  
21 produce either today, tomorrow, or Monday.

22 (Defendant and counsel conferring)

23 MS. SHROFF: I'm sorry. Go ahead.

24 MR. FERRARA: I just proposed possibly a conference to  
25 see if these issues have been resolved after the next

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1 production.

2 MS. SHROFF: That's fine, your Honor. We can come  
3 back whenever the court would like us back.

4 THE COURT: I need my calendar.

5 THE CLERK: Yes, Judge.

6 THE COURT: How long is it going to take to check on  
7 that you have produced or not produced --

8 MR. FERRARA: Well, things like notes, your Honor,  
9 will take me a matter of hours, but what I think is -- what we  
10 want to be at least -- what I think we want to know most  
11 importantly for the next conference is, is there still a  
12 dispute about calls that have been produced or not produced or  
13 other potential discovery that has or has not been produced in  
14 this next batch, so -- which will take Ms. Shroff a little bit  
15 of time to review. It's not going to be an insubstantial  
16 amount of material that she's going to receive, and so it would  
17 just be -- we sort of defer to Ms. Shroff on how she wants to  
18 do that, whether --

19 THE COURT: Very well.

20 MR. FERRARA: I think it should be less than maybe 30  
21 days, but I defer to Ms. Shroff.

22 MR. NAFTALIS: Ms. Shroff, it's about 15 DVDs' worth  
23 of material.

24 MS. SHROFF: Okay.

25 MR. NAFTALIS: Just for your timing.

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1 THE COURT: What is your estimate of how long it will  
2 take you to review this?

3 MS. SHROFF: 30 days? We may need more, your Honor,  
4 so should I give an outer date or it would be better if I asked  
5 for an adjournment?

6 THE COURT: Well, let's try to be reasonable, yes.  
7 It's to your advantage to resolve this matter as quickly as you  
8 can.

9 MS. SHROFF: Yes, your Honor, that's true.

10 (Defendant and his counsel conferring)

11 THE COURT: Shall we set February 27?

12 MS. SHROFF: That's fine, your Honor.

13 THE COURT: Which will give you almost a month.

14 MS. SHROFF: That's fine.

15 MR. NAFTALIS: Your Honor, what time on the 27<sup>th</sup>?

16 THE COURT: At 11 a.m.

17 MS. SHROFF: Your Honor, before we adjourn today, I  
18 just want to give the court some sense that we believe we are  
19 missing calls, not just transcripts but actual calls for the  
20 dates March 29<sup>th</sup>, 30<sup>th</sup>, 31<sup>st</sup>, April 2<sup>nd</sup>, and  
21 April 17<sup>th</sup>.

22 THE COURT: All right. That's certainly a help if you  
23 identify that.

24 MR. FERRARA: By the next conference, your Honor, we  
25 hope to either have produced those calls or to have told

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1 Ms. Shroff in no uncertain terms that we do not believe they  
2 exist.

3 THE COURT: Very well. Then this matter is adjourned.

4 MR. FERRARA: Your Honor, the government moves  
5 pursuant to 18 U.S.C. Section 3161(h)(7)(A) to exclude the time  
6 between now and February 27<sup>th</sup> from the operation of the  
7 speedy trial clock. As your Honor's heard, there's a massive  
8 amount of discovery in this case, largely in Arabic, recordings  
9 and --

10 THE COURT: And I have no reason to think that the  
11 defendant doesn't agree that the time should be excluded.

12 MS. SHROFF: Your Honor, we don't challenge the speedy  
13 trial clock.

14 THE COURT: No, but I want to be sure that Mr. Abassi  
15 understands that what's being asked is that the trial be put  
16 over for a longer period in order to get this material, that  
17 the need for that material, the time required for it,  
18 outweighs, in the interests of justice, a speedier trial. Do  
19 you agree with that?

20 THE DEFENDANT: Yes.

21 THE COURT: Very well. Then I will adopt that and  
22 exclude the time between now and Thursday, February 27<sup>th</sup>, 11  
23 in the morning.

24 MR. FERRARA: Nothing further from the government,  
25 your Honor.

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1 MS. SHROFF: Your Honor, given the government's  
2 insistence that they will not translate all of the calls in  
3 their entirety, the defense will submit a letter to the court  
4 seeking additional funds to allow that to happen. We'll set  
5 forth our request in as much detail as we can.

6 THE COURT: Good.

7 MS. SHROFF: Thank you, your Honor.

8 THE COURT: Very well. Good luck to everybody.

9 MR. FERRARA: You too, your Honor. Good to see you.

10 MR. NAFTALIS: Good to see you.

11 THE COURT: Thank you.

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